Prescribed authority, procedure, form, manner and conditions for approval by a company for deduction for expenditure on scientific research under section 45(3)(*b*).

35. (1) For the purposes section 45(3)(*b*), the prescribed authority shall be the Chief Commissioner of Income-tax having jurisdiction over the applicant.

(2) The procedure, form and manner in respect of approval under section 45(3)(*b*) shall be as under:—

(*a*) An application for approval under section 45(3)(*b*) by a company shall be made in Form No. 17 to the Commissioner of Income-tax having jurisdiction over the applicant, at any time during the financial year immediately preceding the tax year from which the approval is sought.

(*b*) Where approval is sought—

(*i*) from the tax year 2026-27;

(*ii*) from the tax year in which the applicant is incorporated,

application for approval may be made at any time during the said tax year.

(*c*) The person who is authorised to verify the return of income under section 265, as applicable to the applicant shall verify Form No. 17.

(*d*) The applicant shall send a copy of the application to the prescribed authority, accompanied by the acknowledgement receipt as evidence of having furnished the application as per sub-rule (2)(*a*).

(*e*) Every order for approval under section 45(3)(*b*) shall be issued, or an order rejecting the application shall be passed, within a period of twelve months from the end of the quarter in which the application was received in the Office of the Chief Commissioner of Income-tax.

(*f*) If any defect is noticed in the application in Form No. 17, or if any relevant document is not attached thereto, the Commissioner of Income-tax shall serve a deficiency letter on the applicant before the expiry of one month from the end of the month in which application is received in his office.

(*g*) The applicant shall remove the deficiency within a maximum period of one month from the end of the month in which the deficiency letter is served and if the applicant fails to remove the deficiency within the period so allowed, the Commissioner of Income-tax shall send his recommendation for treating the application as invalid to the Chief Commissioner of Income-tax.

(*h*) The Chief Commissioner of Income-tax may, after examining the recommendations referred to in clause (*g*), pass an order that the application is invalid.

(*i*) If the application form is complete in all respects, the Commissioner of Income-tax may, make such inquiry as he may consider necessary regarding the genuineness of the activity of the company and send his recommendation to the Chief Commissioner of Income-tax, for grant of approval or rejection of the application, before the expiry of the period of three months from the end of the quarter in which the application was received in his office.

(*j*) The Chief Commissioner of Income-tax may, before granting approval under section 45(3)(*b*), call for such documents or information from the applicant as he considers necessary and may get any inquiry made for verification of the genuineness of the activity of the applicant.

(*k*) The Chief Commissioner of Income-tax may, under section 45(3)(*b*), pass an order granting approval to the company, or for reasons to be recorded in writing, reject the application.

(*l*) The Chief Commissioner of Income-tax, as referred in sub-rule (1), may withdraw the approval granted under section 45(3)(*b*), if he is satisfied that the company has ceased to carry on its activities or its activities are not genuine or are not being carried on in accordance with all or any of the conditions under this rule.

(*m*) No order treating the application as invalid or rejecting the application or withdrawing the approval shall be passed without giving a reasonable opportunity of being heard.

(*n*) A copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant, the Assessing Officer and the Commissioner of Income-tax.

(*o*) Any order passed by the Chief Commissioner of Income-tax under this rule shall, at any one time, have effect for such tax year or years, not exceeding five tax years, as may be specified in the order.

(*p*) The applicant, may, at least three months before the expiry of the effective period of the order issued under sub-rule (2)(*e*), make an application to the Commissioner of Income-tax having jurisdiction over the applicant for passing a fresh order.

(3) Approval to a company under section 45(3)(*b*) shall be subject to the following conditions:—

(*a*) the sum paid to the company shall be used for scientific research;

(*b*) the applicant company shall carry on scientific research through its own employees using its own assets;

(*c*) a company approved under section 45(3)(*b*), shall maintain separate books of account in respect of the sums received by it for scientific research, reflect therein the amount used for carrying on research, get such books of account audited by an accountant as defined under section 515(3)(*b*), and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under section 263(1)(*c*);

(*d*) the company shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in clause (*c*);

(*e*) subsequent to approval, the company shall, every year, by the due date of furnishing the return of income under section 263(1)(*c*), furnish a statement to the Commissioner of Income-tax having jurisdiction over the case containing the following information:—

(*i*) a detailed note on the research work undertaken by it during the tax year;

(*ii*) a summary of research articles published in national or international journals during the tax year;

(*iii*) any patents or other similar rights applied for or registered during the tax year;

(*iv*) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such subjects; and

(*f*) if it is found by the Commissioner of Income-tax that the company,—

(*i*) is not maintaining separate books of account for research activities; or

(*ii*) has failed to furnish its audit report; or

(*iii*) has not furnished its statement of the sums received and the sums used for research, or a statement referred to in clause (*e*); or

(*iv*) has ceased to carry on its research activities, or its activities are not genuine; or

(*v*) is not fulfilling the conditions subject to which approval was granted to it,

he may after making appropriate enquiries, furnish a report on the circumstances referred to in sub-clauses (*i*) to (*v*) to the jurisdictional Chief Commissioner of Income-tax within six months from the date of furnishing the return of income under section 263(1).

Procedure for notification of an affordable housing project as a specified business under section 46(11)(*d*)(*vii*) and a semi-conductor wafer fabrication manufacturing unit as a specified business under section 46(11)(*d*)(*xiii*).

36. (1) The applicant shall apply for notification of—

(*a*) an affordable housing project (herein referred to as "the project") as a specified business under section 46(11)(*d*)(*vii*), in Form No. 18; or

(*b*) a semiconductor wafer fabrication manufacturing unit (herein referred to as "the unit") as a specified business under section 46(11)(*d*)(*xiii*), in Form No. 19.

(2) The notification mentioned in sub-rule (1) shall be in accordance in with the following procedure:—

(*a*) the person shall apply for notification of the project or the unit in Form No. 18 or Form No. 19, as the case may be, to Member (IT), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, New Delhi;

(*b*) if any defect is noticed in the application or if any relevant document, as required is not attached, a deficiency letter may be served on the applicant;

(*c*) the applicant shall remove the deficiency within one month from the end of the month in which such deficiency letter is served;

(*d*) where the applicant fails to remove the deficiency within the period specified in clause (*c*), the Board, if satisfied, may pass an order treating the application as invalid;

(*e*) the Board may, before granting approval, call for such details, documents or information from the applicant as well as from the income-tax authorities and other Departments or agencies, as it may deem fit;

(*f*) the Board may issue the notification granting approval to the project or the unit, as the case may be, or reject the application, after recording the reasons for rejection in writing;

(*g*) the Board may withdraw the approval in the case of a project or a unit, if it is satisfied that—

(*i*) the assessee has ceased its activities relating to the specified business; or

(*ii*) such activities are not genuine or are not being carried out in accordance with all or any of the conditions under section 46 or under this rule;

(*h*) the Board may also withdraw the approval in respect of a unit under section 46(11)(*d*)(*xiii*), if it is satisfied that the approval granted by the competent authority on the recommendations of the Appraisal Committee under the Modified Special Incentive Package Scheme of the Department of Electronics and Information Technology has been withdrawn;

(*i*) an opportunity of being heard shall be given to the applicant, if an order invalidating or rejecting the application or withdrawing the approval or cancellation of the notification, were to be passed; and

(*j*) a copy of order mentioned in clause (*i*) shall be communicated to the applicant as well as the Assessing Officer and the Commissioner having jurisdiction over the applicant.

(3) The applicant mentioned in sub-rule (1) shall maintain separate books of account with complete details of all capital expenditure incurred during the tax year for which it intends to claim the said deduction under section 46 and shall file the relevant income-tax returns by the due date to avail the tax benefit under the said section.

(4) A project notified under section 46(11)(*d*)(*vii*) or a unit notified under section 46(11)(*d*)(*xiii*), as the case may be, shall continue to be governed by the provisions of this rule to the extent it is not in contravention with the provisions of the Act.

(5) A project shall be considered for notification under section 46(11)(*d*)(*vii*), if it fulfils the following conditions:—

(*a*) the project shall have prior sanction of the competent authority empowered under the Scheme of Affordable Housing in Partnership framed by the Ministry of Housing and Urban Affairs, Government of India;

(*b*) the date of commencement of operations of the project shall be on or after the 1st April, 2011;

(*c*) the project shall be on a plot of land with a minimum area of one acre and out of the total allocable rentable area of the project, the affordable housing units shall comprise of at least—

(*i*) 30% for Economically Weaker Section (EWS) category;

(*ii*) 60% for Economically Weaker Section (EWS) and Lower Income Group (LIG) categories; and

(*iii*) 90% for Economically Weaker Section (EWS), Lower Income Group (LIG) and Middle Income Group (MIG) categories;

(*d*) the remaining 10% or less of the total allocable rentable area of the project may comprise of other residential or commercial units;

(*e*) the design, layout and specifications of the project to be developed and built shall be approved by the State Government or Union territory Administration or its designated implementing agency; and

(*f*) the project shall be completed within a period of five years from the end of the tax year in which the project is sanctioned by the competent authority mentioned in clause (*a*).

(6) A unit shall be considered for notification under section 46(11)(*d*)(*xiii*), if it fulfils the following conditions:—

(*a*) the unit shall be exclusively for the manufacture of semi-conductor wafer fabrications;

(*b*) the unit shall have prior approval of the competent authority on the recommendations of Appraisal Committee under the Modified Special Incentive Package Scheme notified by the Department of Electronics and Information Technology, Ministry of Communications and Information Technology, Government of India;

(*c*) the date of commencement of operations, being the date on which the commercial production of the unit commences, shall be on or after the 1st April, 2014; and

(*d*) the unit may have one or more manufacturing facilities, but all the facilities shall be located in India.

(7) For the purposes of sub-rule (5),—

(*a*) "affordable housing units" shall be of the following categories:

Category	*Rentable Area (in square metres)*	
	Specified cities	*Other cities*
Economically Weaker Section (EWS)	Up to 25	Up to 30
Low Income Group (LIG)	Greater than 25 and up to 50	Greater than 30 and up to 60
Middle Income Group (MIG)	Greater than 50 and up to 70	Greater than 60 and up to 85;

(*b*) "date of commencement of operations" means the date on which the project is sanctioned by the competent authority empowered under the Scheme of Affordable Housing in Partnership framed by the Ministry of Housing and Urban Affairs, Government of India, for a project to be considered for notification under section 46(11)(*d*)(*vii*);

(*c*) "housing unit" means an independent residential unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building—

(*i*) directly accessible from an outer door or through an interior door in a shared hallway and not by walking through another household's living space; and

(*ii*) excluding any shared dining areas;

(*d*) "project" means an affordable housing project;

(*e*) "rentable area" means the carpet area at any floor level, including the carpet area of kitchen, pantry, store, lavatory, bathroom, 50% of unglazed verandah and 100% of glazed verandah, in accordance with the provisions of the Indian Standard - Method of Measurement of Plinth, Carpet and rentable Areas of Buildings, IS 3861:2002, formulated and published by the Bureau of Indian Standards;

(*f*) "specified cities" mean—

(*i*) the urban agglomerations comprising of the area included on the basis of the latest census, of Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bangalore, Ahmedabad;

(*ii*) the districts of Faridabad, Gurgaon, Gautham Budh Nagar, Ghaziabad, Gandhinagar; and

(*iii*) the city of Secunderabad; and

(*g*) "total allocable rentable area" means the total rentable area of all the proposed housing units or non-housing units but excluding the areas earmarked for common facilities and services.

(8) For the purposes of sub-rule (6),—

(*a*) "competent authority" means the authority approving the unit under the Modified Special Incentive Package Scheme notified by the Government of India, Ministry of Communications and Information Technology, Department of Electronics and Information Technology;

(*b*) "date of commencement of operations" means the date on which the commercial production of the unit commences;

(*c*) "semi-conductor wafer fabrications" means integrated circuits which are covered in the National Industrial Classification, 2008 under Division 26; Group 261; Class 2610; Sub-class 26103; and

(*d*) "unit" means a manufacturing facility for semi-conductor wafer fabrications.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Procedure for approval of agricultural extension project under section 47(1)(*a*).

37. (1) The agricultural extension project (herein referred as the project) shall be considered for notification, if it fulfils the following conditions:—

(*a*) the project shall be undertaken by an assessee for training, education and guidance of farmers;

(*b*) the project shall have prior approval of the Ministry of Agriculture and Farmers Welfare, Government of India; and

(*c*) an expenditure (not being expenditure in the nature of cost of any land or building) exceeding the amount of Rs. 25,00,000 is expected to be incurred for the project.

(2) Before undertaking any project, an assessee shall make an application in Form No. 20 to the Member (IT), CBDT for notification of such project under section 47(1)(*a*).

(3) The application referred to in sub-rule (2) shall also be accompanied by—

(*a*) a letter approving the project and specifying the amount of expenditure expected to be incurred on the project, from the Ministry of Agriculture and Farmers Welfare, Government of India;

(*b*) a detailed note on the agricultural extension project to be undertaken by the assessee; and

(*c*) details of the expenditure expected to be incurred on the project and expected date of completion of the project.

(4) Where any defect is noticed in the application referred to in sub-rule (2) or a relevant document is not attached thereto, the Board shall, before the expiry of one month from the end of the month in which the application is received in its office, intimate the defect to the applicant for its rectification.

(5) The applicant shall remove the defect within a period of one month from the end of the month in which intimation letter is served on him.

(6) Where the applicant fails to remove the deficiency within the period mentioned in sub-rule (5), the Board shall, within one month from the time period specified in the said sub-rule, pass an order treating the application as invalid.

(7) If the application is complete in all respects, the Board shall, within two months from the end of the quarter in which it receives such application, issue a notification under section 47(1)(*a*) in Form No. 21 specifying the project, subject to the conditions mentioned in rule 38 or such other conditions, as it may deem fit, to be effective for such period not exceeding three tax years.

(8) The assessee, may, at least three months before the expiry of the effective period of the notification issued under sub-rule (7), make an application to the Board for notification of such project for a further period.

(9) The Board shall, after receiving the application under sub-rule (8), call for a report from the Commissioner of Income-tax, having jurisdiction over the case regarding the activities of the project during the period of notification and fulfilment of conditions specified in rule 38 including any other conditions, if any, subject to which the project was notified under sub-rule (7).

(10) On being satisfied with the report received under sub-rule (9) on the project, the Board may, within two months from the end of the quarter in which it receives application referred to in sub-rule (8), notify the said project for a further period not exceeding three tax years.

(11) The Board may, on being satisfied that—

(*a*) the assessee has ceased its activities, or that its activities are not genuine; or

(*b*) its activities are not being carried out in accordance with all or any of the relevant provisions of this rule or rule 38; or

(*c*) its activities are not being carried out in accordance with all or any of the conditions subject to which the notification was issued,

pass an order for revocation of the notification issued under sub-rule (7) or sub-rule (10) after providing a reasonable opportunity of being heard.

(12) A copy of notification, approval, rejection, or cancellation shall be communicated to—

(*a*) the applicant;

(*b*) the Ministry of Agriculture and Farmers Welfare, Government of India;

(*c*) the Commissioner of Income-tax having jurisdiction over the applicant;

(*d*) the Department of Agriculture of the concerned State; and

(*e*) the Agricultural Technology Management Agency of the concerned district.

Conditions for notification of agricultural extension projects under section 47(1)(*a*).

38. (1) The assessee undertaking an agricultural extension project (herein referred as the project) shall maintain separate books of account of the project notified under section 47(1)(*a*) and get such books of account audited by an accountant as defined under section 515(3)(*b*).

(2) The audit report referred to in sub-rule (1) shall include comments of the auditor on the true and fair view of the books of account maintained for the project, the genuineness of the activities of the project, and fulfilment of the conditions specified in the relevant provisions of the Act, the rules, or a notification issued under rule 37.

(3) The assessee shall not accept an amount exceeding the amount approved in the notification from the beneficiary under the eligible project for training, education, guidance, or any material distributed for such training, education or guidance.

(4) The assessee shall not derive any direct or indirect benefit from the notified project except for the deduction of eligible expenditure in accordance with section 47(1)(*a*), rule 37 and this rule.

(5) The expenses, eligible for deduction under section 47(1)(*a*), shall be all expenses incurred wholly and exclusively for undertaking an eligible project as reduced by—

(*a*) the amount received from the beneficiary;

(*b*) the cost of any land or building;

(*c*) any expenditure on the project that is reimbursed or reimbursable to the assessee by any person, whether directly or indirectly.

(6) The assessee shall, on or before the due date of furnishing the return of income under section 263(1), furnish the following to the Commissioner of Income-tax having jurisdiction over the assessee:—

(*a*) the audited statement of accounts of the project for the tax year along with the audit report and the amount of deduction claimed under section 47(1)(*a*);

(*b*) a note on the project undertaken during the tax year, the programme of the project to be undertaken during the current year, and the financial allocation for such programme; and

(*c*) a certificate from the Ministry of Agriculture and Farmers Welfare, Government of India, regarding the genuineness of the project undertaken by the assessee during the tax year.

(7) If it is found by the Commissioner of Income-tax that—

(*a*) the assessee has not maintained separate books of account for the project or has not got such books of account audited by an accountant in accordance with sub-rule (1); or

(*b*) the assessee has not furnished the documents referred to in sub-rule (6); or

(*c*) the assessee has ceased to carry out activities of the project; or

(*d*) the activities of the project of the assessee are not genuine; or

(*e*) the activities of the project are not being carried out in accordance with the relevant provisions of the Act, rules, or the conditions subject to which the notification was issued under rule 37,

he may, after making appropriate inquiries, furnish a report on the circumstances referred to in clauses (*a*) to (*e*) to the Board for appropriate action as per the provisions of rule 37(11).

Procedure for approval of skill development projects under section 47(1)(*b*).

39. (1) A skill development project (herein referred as the project) shall be considered for notification, if it is undertaken by an eligible company and the project is undertaken in a separate facility in a training institute.

(2) Before undertaking any project, the eligible company shall make an application in Form No. 22 to the National Council for Vocational Education and Training (herein referred to as "National Council") for notification of such project under section 47(1)(*b*).

(3) A copy of the application shall also be sent to the Commissioner of Income-tax having jurisdiction over the applicant, along with an acknowledgement receipt as evidence of furnishing of application to the National Council.

(4) The application shall be accompanied by—

(*a*) a letter of concurrence from the training institute in which the project is to be undertaken;

(*b*) a detailed note on the skill development project to be undertaken by the eligible company; and

(*c*) details of the expenditure expected to be incurred on the project and expected date of completion of the project.

(5) If any defect is noticed in the application referred to in sub-rule (2), or if any relevant document is not attached thereto, the National Council shall, before the expiry of one month from the end of the month in which the application is received in its office, intimate the defect to the applicant for its rectification.

(6) The applicant shall remove the defect within a period of one month from the end of the month in which the intimation letter for removal of the deficiency is served.

(7) Where the applicant fails to remove the deficiency within the period mentioned in sub-rule (6), the National Council shall send its recommendation for treating the application as invalid to the Board.

(8) On receipt of the recommendation of the National Council under sub-rule (7), the Board, if satisfied, may pass an order treating the application as invalid.

(9) If the application is complete in all respects,—

(*i*) the National Council may make such inquiry or call for such documents from the eligible company or the training institute as it may consider necessary for satisfying itself regarding the genuineness of the current and proposed activity of the applicant relating to skill development; and

(*ii*) send its recommendation to the Board for grant of approval or rejection of the application before the expiry of two months from the end of the month in which the application, complete in all respects, was received in its office.

(10) The Commissioner of Income-tax having jurisdiction over the applicant shall send his recommendation to the National Council for grant of approval or rejection of the application, after considering the compliance of the applicant with the various provisions of the Act before the expiry of one month from the end of the month in which the copy of the application was received in his office.

(11) If the National Council recommends the grant of approval under sub-rule (9), the Board shall within two months from the end of the quarter in which it receives the report from the National Council, issue a notification in Form No. 23 under section 47(1)(*b*), specifying the project, subject to conditions mentioned in rule 40 or such other conditions, as it may deem fit, to be effective for such period not exceeding three tax years.

(12) If the National Council recommends the rejection of the application under sub-rule (9), the Board shall pass an order rejecting the application.

(13) If the Board is satisfied with the activities of the project during the period of notification, it may notify the said project for a further period in consultation with the National Council.

(14) If the Board is satisfied that—

(*a*) the eligible company or the training institute has ceased its activities, or that its activities are not genuine; or

(*b*) that its activities are not being carried out in accordance with—

  (*i*) all or any of the relevant provisions of the Act or this rule or rule 40; or

  (*ii*) the conditions subject to which the notification was issued,

it may pass an order for revocation of the notification issued under sub-rule (11) or sub-rule (13) after providing a reasonable opportunity of being heard.

(15) A copy of notification, approval, rejection, or cancellation shall be communicated to:—

(*a*) the applicant;

(*b*) the National Council;

(*c*) the training institute; and

(*d*) the Commissioner of Income-tax having jurisdiction over the applicant.

Conditions subject to which a skill development project is to be notified under section 47(1)(*b*).

40. (1) The company undertaking a skill development project (herein referred as the project) shall maintain separate books of account for the project notified under section 47(1)(*b*) and get such books of account audited by an accountant as defined in section 515(3)(*b*).

(2) The audit report referred to in sub-rule (1) shall include the comments of the auditor on the true and fair view of the books of account maintained for the project, the genuineness of the activities of the project, and the fulfilment of the conditions specified in the relevant provisions of the Act, rules, or the conditions mentioned in notification issued under rule 39.

(3) A project in respect of existing employees of the company shall not be eligible for notification under section 47(1)(*b*), where the training of such employees commences after six months of their recruitment.

(4) The expenses, eligible for deduction under section 47(1)(*b*), shall be all expenses incurred wholly and exclusively for undertaking an eligible project as reduced by—

(*a*) the cost of any land or building; and

(*b*) any expenditure on the project that is reimbursed or reimbursable to the assessee by any person, whether directly or indirectly.

(5) The company shall, on or before the due date of furnishing the return of income under section 263(1), furnish the audited statement of accounts of the project for the tax year along with the audit report and the amount of deduction claimed under section 47(1)(*b*), to the Commissioner of Income-tax having jurisdiction over the company.

(6) If it is found by the Commissioner of Income-tax that—

(*a*) the company has not maintained separate books of account for the project or has not got such books of account audited by an accountant in accordance with sub-rule (1); or

(*b*) the company has not furnished the documents referred to in sub-rule (5); or

(*c*) the company has ceased to carry out activities of the project; or

(*d*) the activities of the project of the company are not genuine; or

(*e*) the activities of the project of the company are not being carried out in accordance with the relevant provisions of the Act, rules, or the conditions subject to which the notification was issued under rule 39,

he shall, after making appropriate inquiries, furnish a report on the circumstances referred to in clauses (*a*) to (*e*) to the Board for appropriate action under rule 39(14).

(7) If the National Council for Vocational Education and Training is not satisfied about the genuineness of the activities of the notified project, it shall send its recommendation to the Board for appropriate action under rule 39(14).

(8) For the purposes of this rule and rule 39,—

(*a*) "eligible company" means a company, which is—

(*i*) engaged in the business of manufacture or production of any article or thing, not being an article or thing mentioned at serial numbers 1 and 2 of the list of articles or things specified in the Thirteenth Schedule; or

(*ii*) engaged in providing the following services:

1. accounting services;
2. architect services;
3. automobile repair or maintenance;
4. banking, insurance and financial services including ATM installation, maintenance and operations or banking correspondents or insurance agents;
5. beauty and cosmetology, including hair styling or manicurists or pedicurists;
6. cable operators or Direct To Home (DTH) services;
7. cargo handling and stevedoring services;
8. construction including painting or woodwork or plumbing or flooring or electrical wiring or installation or maintenance of lifts;
9. courier services;
10. design services including fashion or gems and jewellery or apparel or industrial designing;
11. event management;
12. facilities management, housekeeping, cleaning services;
13. fire and safety services;
14. food processing or preservation services, including post harvesting and post farm-gate skills;
15. health and wellness services including spa or nutritionists or weight management or health instructors or yoga or gym trainers;
16. home decor services, landscaping;
17. hospital and Healthcare services, such as Lab technicians, nursing and other paramedical staff;
18. hospitality, including culinary skills or catering services;
19. logistics and transportation by any mode, including by air, sea, road, rail or pipelines, and related services such as driving or operation of heavy machinery equipment, forwarding agents, packers and movers;
20. market research services;
21. media or film or advertising;
22. mining and extraction of mineral resources, including hydrocarbons;
23. packaging and warehousing, including both ambient temperature storage and cold storage, operation of internal container depots and container freight stations;
24. port and maritime services such as dredging, piloting, tug boat operations, ship building, ship scrapping and bunkering;

25. power sector services, including those required for erection or installation or maintenance of equipment or towers, etc. in generation, transmission or distribution sector projects;
26. private security, including guards, supervisors, installation and maintenance of security equipment etc.;
27. refrigeration and air-conditioning;
28. repair and maintenance services, including installation and servicing of household goods or white goods;
29. retail marketing, including shop floor assistants or merchandisers;
30. telecom services, including erection and maintenance of towers; and
31. travel and tourism, including guides or ticketing or sales or cab drives;

(*b*) "National Council for Vocational Education and Training" means the National Council constituted by the Ministry of Skill Development and Entrepreneurship *vide* Notification No. SD-17/113/2017-E&PW dated 5-12-2018;

(*c*) "State Council for Vocational Training" means a State Council for Training in Vocational Trades established by a State Government; and

(*d*) "training institute" means a training institute—

(*i*) set up by the Central Government or a State Government or a local authority;
(*ii*) affiliated to a State Council for Vocational Training;
(*iii*) affiliated to, or approved by, or empanelled by, the National Council for Vocational Education and Training;
(*iv*) affiliated to, or approved by, or empanelled by, the Central Government and certified by the National Council for Vocational Education and Training as having training standards equivalent to training institutes affiliated to the National Council for Vocational Education and Training; or
(*v*) affiliated to, or approved by or empanelled by, the State Government and certified by the National Council for Vocational Education and Training or a State Council for Vocational Training as having training standards equivalent to training institutes affiliated to the National Council for Vocational Education and Training or, as the case may be, the State Council for Vocational Training.

Expenditure for obtaining right to use spectrum for telecommunication services.

41. (1) For the purposes of section 52(7)(*a*) read with section 52(1) [Table: Sl. No. 3], the term "actually paid" shall mean,—

(*a*) where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make full upfront payment of spectrum fee, the actual payment of expenditure, irrespective of the tax year in which the liability for the expenditure was incurred, according to the method of accounting regularly employed by the assessee; or

(*b*) where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make deferred payment, the amount which would have been payable by the assessee had he opted for full upfront payment of spectrum fee, irrespective of the tax year in which the liability for the expenditure was incurred, according to the method of accounting regularly employed by the assessee.

(2) In case of deferred payment referred to in sub-rule (1)(*b*), where there is failure by the assessee to comply with any of the conditions specified by the scheme of the Department of Telecommunications, Government of India and the Department of Telecommunications terminates the allotment or assignment of spectrum, the Assessing Officer, in exercise of power vested in him under section 52(5), shall recompute the total income of the assessee for the tax year in which the deduction has been claimed and granted to him by deeming that—

(*a*) the total spectrum fee paid up to the date of termination is the amount "actually paid"; and

(*b*) the spectrum was in force up to the date of its termination for the purpose of determining the number of tax years as required by section 52(1) [Table: Sl. No. 3, C. D].

Special provision regarding interest on bad and doubtful debt of specified financial institution.

42. (1) The provisions of section 56 shall apply in the case of every public financial institution, scheduled bank, State Financial Corporation and State Industrial Investment Corporation, if its income from interest is related to following categories of bad or doubtful debts:—

(*a*) in relation to a loan or advance, where,—

(*i*) interest or instalment of principal remains overdue for a period of more than one hundred and eighty days; or

(*ii*) the account remains out of order in respect of an overdraft or cash credit; or

(*iii*) the bill remains overdue for a period of more than one hundred and eighty days in the case of bills purchased and discounted; or

(*iv*) the instalment of principal or interest thereon remains overdue for two crop seasons for short duration crops; or

(*v*) the instalment of principal or interest thereon remains overdue for one crop season for long duration crops; or

(*vi*) the amount of liquidity facility remains outstanding for more than one hundred and eighty days for a securitisation transaction undertaken in terms of the Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021; or

(*vii*) in respect of derivative transactions, the overdue receivables representing positive mark-to-market value of a derivative contract, if these remain unpaid for a period of one hundred and eighty days from the specified due date for payment; and

(*b*) in relation to an account, where,—

(*i*) a working capital borrowal account with irregular drawings for a continuous period of one hundred and eighty days even though the unit may be working or the borrower's financial position is satisfactory and for this purposes the outstanding in the account based on drawing power calculated from stock statements older than six months would be deemed as irregular; or

(*ii*) the regular or *ad hoc* credit limits have not been reviewed or renewed within one hundred and eighty days from the due date or date of *ad hoc* sanction; or

(*iii*) there is erosion in the value of security and the realisable value of the security is less than 50% of the value assessed by the bank or accepted by Reserve Bank of India at the time of last inspection; or

(*iv*) the realisable value of the security, as assessed by the bank or approved valuers or Reserve Bank of India is less than 10% of the outstanding in the borrowal accounts.

(2) The provisions of section 56 shall apply in the case of every public company, where its income by way of interest pertains to the following category of bad and doubtful debts:—

(*a*) (*i*) doubtful asset, that is, a debt which has remained a non-performing asset of the nature specified in sub-clause (*ii*) for a period exceeding two years;

(*ii*) non-performing asset referred to in sub-clause (*i*) shall be the following:—

(*A*) an asset, in respect of which, interest has remained overdue for a period of more than one hundred and eighty days;

(*B*) a term loan (other than the one granted to an agriculturist or to a person whose income is dependent on the harvest of crops) inclusive of unpaid interest, when the instalment is overdue for a period of more than one hundred and eighty days or more or on which interest amount remained overdue for a period of more than one hundred and eighty days;

(*C*) a demand or call loan, which remained overdue for a period of more than one hundred and eighty days from the date of demand or call or on which interest amount remained overdue for a period of more than one hundred and eighty days;

(*D*) a bill which remains overdue for a period of more than one hundred and eighty days;

(*E*) the interest in respect of a debt or the income on receivables under the head 'other current assets' in the nature of short-term loans or advances, which facility remained overdue for a period of more than one hundred and eighty days;

(*F*) any dues on account of sale of assets or services rendered or reimbursement of expenses incurred, which remained overdue for a period of more than one hundred and eighty days;

(*G*) the lease rental and hire purchase instalment, which has become overdue for a period of more than one hundred and eighty days;

(*H*) a term loan granted to an agriculturist or to a person, whose income is dependent on the harvest of crops, if the instalment of principal or interest thereon remains unpaid—

(*I*) for two crop seasons beyond the due date if the income of the borrower is dependent on short duration crops; or

(*II*) for one crop season beyond the due date if the income of the borrower is dependent on long duration crop;

(*I*) in respect of loans, advances and other credit facilities (including bills purchased and discounted), the balance outstanding under the credit facilities (including accrued interest) made available to the same borrower or beneficiary when any of the above credit facilities becomes non-performing asset; and

(*b*) loss asset, that is, an asset which has been identified as loss asset and considered as uncollectible but has not been written off by the assessee.

(3) For the purposes of this rule—

(*a*) an overdraft or cash credit account shall be treated as "out of order" if—

(*i*) the outstanding balance in the overdraft or cash credit account remains continuously in excess of the sanctioned limit or drawing power for one hundred and eighty days; or

(*ii*) the outstanding balance in the overdraft or cash credit account is less than the sanctioned limit or drawing power but there are no credits continuously for one hundred and eighty days, or the outstanding balance in the overdraft or cash credit account is less than the sanctioned limit or drawing power but credits are not enough to cover the interest debited during the previous one hundred and eighty days period;

(*b*) "long duration crop" means crop with crop season longer than one year;

(*c*) "public company" means a company,—

(*i*) which is a public company within the meaning of section 2(*71*) of the Companies Act, 2013 (18 of 2013);

(*ii*) whose main object is carrying on the business of providing long-term finance for construction or purchase of house in India for residential purposes; and

(*iii*) which is registered under section 29A of the National Housing Bank Act, 1987 (53 of 1987) or in accordance with the Housing Finance Companies (NHB) Directions, 1989 or Non-Banking Financial Company – Housing Finance Company (Reserve Bank) Directions, 2021 issued by the local Government.

(*d*) "short duration crop" means crop which is not a long duration crop;

(*e*) "the crop season for each crop" means the period up to harvesting of the crops raised, as may be as determined by the State Level Bankers' Committee in each State.

Form of report of audit to be furnished under section 59(4) for computation of royalty and fee for technical services.

43. The report of audit of accounts of a non-resident (not being a company) or a foreign company for computation of royalty and fee for technical services, which is required to be furnished under section 59(4), shall be in Form No. 24.

Conditions to be fulfilled by a non-resident, engaged in the business of operation of cruise ships under section 61(2) [Table: Sl. No. 2].

44. For the purposes of section 61(2) [Table: Sl. No. 2], a non-resident assessee, engaged in the business of operation of cruise ships shall,—

(*a*) operate a passenger ship having a carrying capacity of more than two hundred passengers or length of seventy-five meters or more, for leisure and recreational purposes and having appropriate dining and cabin facilities for passengers;

(*b*) operate such ship on scheduled voyage or shore excursion touching at least two sea ports of India or same sea ports of India twice;

(*c*) operate such ship primarily for carrying passengers and not for carrying cargo; and

(*d*) operate such ship as per the procedure and guidelines if any, issued by the Ministry of Tourism or Ministry of Ports, Shipping and Waterways.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Conditions to be fulfilled by a resident company for purposes of section 61(2) [Table: Sl. No. 6].

45. (1) For the purposes of section 61(2) [Table: Sl. No. 6], a resident company shall,—

(*a*) be establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India under any scheme notified by the Central Government in the Ministry of Electronics and Information Technology and as modified from time to time; and

(*b*) not become ineligible for the such scheme at any time of the tax year for which tax is to be calculated for the income of the non-resident.

(2) For the purposes of this rule, 'electronics goods' shall mean goods covered under any scheme referred to in sub-rule (1), including their supply chain ecosystem.

सत्यमेव जयते
कोष मूलो दण्ड:
INCOME TAX DEPARTMENT

Maintenance of books of account under section 62.

46. (1) Every person required to keep and maintain books of account and other documents under section 62(1)(*b*) shall maintain such books of account and other documents that enable the Assessing Officer to compute his total income under the Act.

(2) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or profession of authorised representative or film artist, shall keep and maintain the books of account and other documents specified in sub-rule (4).

(3) The provisions of sub-rule (2) shall not apply—

(*i*) in relation to any tax year in the case of any person, if his total gross receipts in the profession do not exceed Rs. 150000 in any one of the three years immediately preceding the tax year; or

(*ii*) where the profession has been newly set up in the tax year, his total gross receipts in the profession for that year are not likely to exceed the said amount.

(4) The books of account and other documents referred to in sub-rule (2) shall be the following:—

(*a*) a cash book; or

(*b*) a journal, if the accounts are maintained according to the mercantile system of accounting; or

(*c*) a ledger; or

(*d*) for sums equal to or exceeding two hundred and fifty rupees, copies of bills or receipts issued by him; or

(*e*) original bills and receipts in respect of expenditure equal to or exceeding two hundred and fifty rupees incurred by the person and issued to him; or

(*f*) payment vouchers prepared and signed by the person, where the expenditure incurred does not exceed two hundred and fifty rupees, and the cash book maintained by the person does not contain adequate particulars in respect of such expenditure.

(5) In this rule,—

(*a*) "authorised representative" means a person who represents any other person, on payment of any fee or remuneration before—

(*i*) any Tribunal; or

(*ii*) any authority constituted or appointed by or under any law for the time being in force;

but does not include an employee of the person so represented or a person carrying on legal profession or a person carrying on the profession of accountancy;

(*b*) "cash book" means a record of all cash receipts and payments, kept and maintained day-to-day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a month;

(*c*) "film artist" means any person engaged in his professional capacity in the production of a cinematograph film whether produced by him or by any other person, as—

(*i*) an actor; or

(*ii*) a cameraman; or

(*iii*) a director, including an assistant director; or

(*iv*) a music director, including an assistant music director; or

(*v*) an art director, including an assistant art director; or

(*vi*) a dance director, including an assistant dance director; or

(*vii*) an editor; or

(*viii*) a singer; or

(*ix*) a lyricist; or

(*x*) a story writer; or

(*xi*) a screen-play writer; or

(*xii*) a dialogue writer; or

(*xiii*) a dress designer.

(6) A person carrying on medical profession shall, in addition to the books of account and other documents specified in sub-rule (4), keep and maintain the following:—

(*i*) a daily case register in Form No. 25;

(*ii*) an inventory under broad heads, as on the first and the last day of the tax year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession.

(7) The books of account and other documents specified in sub-rules (1), (4) and (6) other than those relating to a tax year which has come to an end shall be kept and maintained by the person at—

(*a*) the place where he is carrying on the profession; or

(*b*) where the profession is carried on in more places than one, at the principal place of his profession; or

(*c*) if the person keeps and maintains separate books of account in respect of each place where the profession is carried on, such books of account and other documents may be kept and maintained at the respective places at which the profession is carried on.

(8) The books of account and other documents specified in sub-rules (1), (4) and (6) maintained in electronic mode shall remain accessible in India at all times, and the back-up of such books of account and other documents maintained in electronic mode, shall be kept on a daily basis in servers physically located in India.

(9) The books of account and other documents specified in sub-rules (1), (4) and (6) shall be kept and maintained for a period of seven tax years from the end of the relevant tax year.

(10) Where the assessment in relation to any tax year has been reopened under section 279 or under section 147 of the Income-tax Act, 1961 (43 of 1961), as it existed prior to its repeal, all the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment, so reopened has been completed.

Report of audit of accounts to be furnished under section 63.

47. (1) The report of audit of the accounts of a person required to be furnished under section 63 shall,—

(*a*) in the case of a person who carries on business or profession and who is required by or under any law other than the Act to get his accounts audited, be in Part A of Form No. 26;

(*b*) in the case of a person who carries on business or profession, but not being a person referred to in clause (*a*), shall be in Part B of Form No. 26.

(2) The particulars required to be furnished under section 63 shall also be in Part C and D of Form No. 26.

(3) The report of audit furnished under this rule may be revised by the person by obtaining a revised report of audit from an accountant as defined in section 515(3)(*b*), duly signed and verified by such accountant, and shall furnish it before the end of the relevant financial year succeeding the tax year for which the report pertains, if there is payment by such person after furnishing of the report under sub-rules (1) and (2) which necessitates recalculation of the disallowance under section 35 or section 37.

सत्यमेव जयते
कोष मूलो दण्डः
INCOME TAX DEPARTMENT

Other electronic modes of payment.

48. For the purposes of Schedule VIII [Table: Sl. No. 1. D(*d*)], section 66(32), section 146(5)(*a*)(*ii*)(*B*), sections 185, 186 and 188, the other electronic modes of payment shall be the following:—

(*a*) Credit card;
(*b*) Debit card;
(*c*) Net banking;
(*d*) IMPS (Immediate Payment Service);
(*e*) UPI (Unified Payment Interface);
(*f*) RTGS (Real Time Gross Settlement);
(*g*) NEFT (National Electronic Funds Transfer);
(*h*) BHIM (Bharat Interface for Money) Aadhaar Pay; and
(*i*) Tier-III: Full KYC Central Bank Digital Currency wallets, P-CBDC, Wholesale/Cross-border CBDC.

Computation of capital gains for purposes of section 67(5).

49. (1) If a person receives any amount under a specified unit-linked insurance policy, including any bonus allocated on such policy, then the capital gains arising from receipt of such amount in situations referred in column B of the following Table shall be computed according to column C thereof:

TABLE

Sl. No.	*Situations*	*Capital gains*
A	*B*	*C*
1.	Where the amount is received for the first time during the tax year	A – B Where, A = the amount received for the first time, including the amount allocated by way of bonus on such policy; and B = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amounts referred to as 'A'.
2.	Where the amount is received during the tax year, at any time after the receipt of the amount as referred to in Sl. No.1	C – D Where, — C = the amount received during the tax year, at any time after the receipt of the amount as referred to in Sl. No. 1, including the amount allocated by way of bonus on such policy excluding the amount that has already been considered for calculation of taxable amount under this sub-rule during the earlier tax year or years; and D = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amount referred to as 'C' as reduced by the premium that has already been considered for calculation of taxable amount under this sub-rule during the earlier tax year or years.

(2) The capital gains as computed under sub-rule (1) shall be deemed to be the capital gains arising from the transfer of a unit of an equity-oriented fund set up under a scheme of an insurance company that includes unit linked insurance policies.

(3) In this rule, the expression "specified unit linked insurance policy" means any unit linked insurance policy referred to in section 2(*22*)(*c*).

Attribution of income taxable under section 67(10) to capital assets remaining with the specified entity, under section 72.

50. (1) For the purposes of section 72(5), the amount chargeable to income-tax as income of specified entity under section 67(10), shall be attributed to capital asset remaining with the specified entity in the manner provided in this rule.

(2) Where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of balance in his capital account, chargeable to tax under section 67(10) relates to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, the amount attributable to the capital asset remaining with the specified entity for purpose of section 72(5) shall be—

A= B×(C/D).

Where,—

A= the amount attributable to the capital asset remaining with the specified entity for purpose of section 72(5);

B= amount charged under section 67(10);

C= increase in, or recognition of, value of the asset remaining with the specified entity, because of revaluation or valuation; and

D= aggregate of increase in, or recognition of, value of all assets because of the revaluation or valuation.

(3) Where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, is in excess of the balance in his capital account, charged to tax under section 67(10) does not relates to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, the amount charged to tax under section 67(10) shall not be attributed to any capital asset for the purposes of section 72(5).

(4) Irrespective of anything contained in sub-rule (2) or sub-rule (3), where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of balance in his capital account, charged to tax under section 67(10) relate only to the capital asset received by the specified person from the specified entity, the amount charged to tax under section 67(10) shall not be attributed to any capital asset for the purposes of section 72(5).

(5) The specified entity shall furnish the details of amount attributed to capital asset remaining with the specified entity in Form No. 27.

(6) The person who is authorised to verify the return of income of the specified entity under section 265 shall verify Form No. 27.

(7) Form No. 27 shall be furnished on or before the due date referred to in section 263(1)(*c*) for the tax year in which the amount is chargeable to tax under section 67(10).

(8) For the purposes of this rule,—

(*a*) the amount chargeable to tax under section 67(10) shall relate to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, if the revaluation is based on a valuation report obtained from a registered valuer as defined in rule 56(*f*);

(*b*) the specified entity shall not be entitled for the depreciation on—

(*i*) the increase in value of an asset on account of its revaluation; or

(*ii*) the recognition of the value of a self-generated asset or self-generated goodwill, due to its valuation; and

(*c*) the expressions "self-generated asset" and "self-generated goodwill" shall have the meanings respectively assigned to them in section 67(11)(*b*).

Other conditions required to be fulfilled by the original fund.

51. (1) For the purposes of section 70(2) [Table: Sl. No. 5, C(*a*)(*A*)(*iv*)], the original fund, in a case where a capital asset is transferred to a resultant fund being a Category III Alternative Investment Fund, shall fulfil the condition that the aggregate participation or investment in the original fund, either directly or indirectly, by persons resident in India does not exceed 5% of the corpus of such fund at the time of such transfer.

(2) For the purpose of sub-rule (1) the expressions "original fund" and "resultant fund" shall have the meanings respectively assigned to them in section 70(2) [Table: Sl. No. 5, C(*a*) and (*c*)].

Rate of exchange for conversion of rupees into foreign currency and reconversion of foreign currency into rupees for purpose of computation of capital gains under section 72.

52. (1) For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident, the rate of exchange shall be, in the circumstances referred to in column B of the following table, as per column C thereof:—

TABLE

Sl. No.	*Circumstances*	*Rate of Exchange*
A	*B*	*C*
1.	For converting the cost of acquisition of the capital asset,	The average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of its acquisition.
2.	For converting the expenditure incurred wholly and exclusively in connection with the transfer of the capital asset referred to in Sl. No. 1,	The average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset.
3.	For converting the full value of consideration received or accruing as a result of the transfer of the capital asset referred to in Sl. No. 1,	The average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset.
4.	For converting the capital gains computed in the foreign currency initially utilised in the purchase of the capital asset into rupees,	The telegraphic transfer buying rate of such currency, as on the date of transfer of the capital asset.

(2) For the purposes of this rule,—

(*a*) "telegraphic transfer buying rate" shall have the meaning assigned to it in rule 206; and

(*b*) "telegraphic transfer selling rate", in relation to a foreign currency, means the rate of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for selling such currency where such currency is made available by that bank through telegraphic transfer.